

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7440

Petition of Entergy Nuclear Vermont Yankee,     )  
LLC, and Entergy Nuclear Operations, Inc., for     )  
amendment of their Certificates of Public Good     )  
and other approvals required under 10 V.S.A.     )  
§§ 6501-6504 and 30 V.S.A. §§ 231(a), 248 &     )  
254, for authority to continue after March 21,     )  
2012, operation of the Vermont Yankee Nuclear     )  
Power Station, including the storage of spent-     )  
nuclear fuel     )

Order entered: 10/7/2008

**PROCEDURAL ORDER RE: SCHEDULE**

The Vermont Public Service Board ("Board") convened a status conference in this proceeding on October, 1, 2008, for the purpose of setting a schedule for the remainder of this proceeding. Our original schedule had contained dates only through October 15, primarily because of the expectation that the Petitioners, Entergy Nuclear Vermont Yankee, LLC, and Entergy Nuclear Operations, Inc., (jointly "Entergy VY") would have reached agreement with one or more Vermont utilities on a purchase power agreement ("PPA") related to the sale of power following relicensing.

At the status conference, Entergy VY announced that it had not yet reached agreement on a PPA (although it still intended to pursue negotiations). In light of the unresolved status of the PPA discussions, Entergy VY proposed a schedule that delayed evidentiary hearings by approximately three months from the schedule proposed in July. After discussion, the Board directed all parties to file comments upon Entergy VY's proposal, and file alternatives, by October 3, 2008. The Board received comments and/or proposals from the Vermont Department of Public Service ("Department"), Green Mountain Power Corporation ("GMP"), Central

Vermont Public Service Corporation ("CVPS"), Vermont Public Interest Research Group ("VPIRG"), Conservation Law Foundation, and the New England Coalition.

After consideration of the parties' comments, we adopt the schedule set out below, subject to several clarifications. First, the schedule does not set a specific date for submission of a PPA and testimony from Entergy VY and Vermont utilities on the PPA. These parties should be prepared to file testimony as soon as possible after they reach agreement, but no later than December 22, 2008. If agreement on a PPA does not occur until after that date, it is likely that we will need to make further schedule adjustments to allow for reasonable discovery and supplemental testimony.

Second, for much of the discovery, we have not set specific dates, but instead require a 10-calendar-day response time (with responses delivered by these deadlines). The closing deadline specified in the schedule for rolling discovery is the final date for issuing discovery questions; responses would occur outside of this window.

Third, we did not adopt a specific provision as proposed by VPIRG allowing time for parties to request access to materials relied upon by the Public Oversight Panel.<sup>1</sup> The vast majority of this information is likely to be the Comprehensive Vertical Audit ("CVA") itself (and supporting information) which will be filed December 22, 2008. To the extent that parties wish additional information from the Public Oversight Panel, they can pursue it within the following schedule.

Fourth, this schedule grants VPIRG's request for an extension of the second-round discovery deadline until November 14, 2008.

Fifth, in developing this schedule, we have attempted to accommodate as much as possible Entergy VY's interest in a timely Board decision. We understand Entergy VY's desire for a ruling by next summer that will assist them in planning for the Spring 2010 refueling outage; this would likely minimize outage time and thereby maximize the value of the power from the Vermont Yankee Nuclear Power Station to GMP and CVPS. However, in adopting this schedule, we had to balance that interest against the fact that several significant studies or pieces of evidence remain outstanding and are unlikely to be filed before December 22. These include

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1. The Public Oversight Panel was established under Act 189 of the 2007-2008 Legislative Session.

the PPA (for which no schedule presently exists), the CVA, and the public engagement process.<sup>2</sup> Here, Entergy VY's proposed schedule allowed only eight days — during the Christmas holidays — for propounding discovery on these significant studies. Fairness requires that all parties have a reasonable opportunity to conduct discovery upon these components and respond through testimony. The schedule we adopt is designed to provide all parties adequate time for discovery and testimony, while adjusting the hearing dates by only a month from Entergy VY's proposal.

Finally, we observe that the target date for a final Board order is after the legislature is expected to adjourn for the summer. Although the Department and Entergy VY had earlier sought a schedule that allowed for Board action before such adjournment, even the schedule now proposed by Entergy VY would not allow for such an order. Nonetheless, the schedule we adopt is consistent with the Department's request that we be in a position to act expeditiously in the event the Legislature takes action to support relicensing of the plant during the 2009 legislative session.

October 3, 2008	Petitioners' Response to Pending Second-Round Discovery Requests
November 14, 2008	Supplemental Second-Round Discovery Requests as per Board's Order of September 26, 2008
November 14, 2008	Department Files Public Engagement Studies (other than Health)
December 3, 2008	Petitioners respond to Second-Round Discovery Requests
December 22, 2008	Department Files Audit Report from CVA Inspection Team (and additional Public Engagement Studies not Previously Filed)
December 22, 2008 – January 23, 2009	All Parties Promulgate Discovery on CVA/Reliability Issues, on PPA (if signed and filed), and Public Engagement Studies (rolling discovery with 2-week response times)
February 6, 2009	Department/Intervenors Prefile Testimony. Entergy VY Prefiles Testimony on CVA and Public Engagement Studies
February 6, 2009 – March 2, 2009	All Parties Promulgate Discovery on Supplemental Prefiled Testimony (rolling discovery with 2-week response times)

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2. In addition, the Public Oversight Panel's report may not be complete before January 30, 2009.

March 23, 2009	Petitioners File Rebuttal Testimony
March 23, 2009 – April 10, 2009	All Parties Promulgate Discovery on Petitioners' Rebuttal Testimony (rolling discovery with 10-calendar-day response times)
April 24, 2009	Department/Intervenors File Surrebuttal Testimony
Week of April 27, 2009	Public Hearing
May 1, 2009	All Parties Promulgate Discovery on Surrebuttal Testimony
May 11, 2009	All Parties Respond to Discovery on Rebuttal Testimony
May 18, 2009 – June 3, 2009	Technical Hearings
June 24, 2009	Parties File Proposals for Decision and Initial Briefs
July 6, 2009	Parties File Reply Briefs

**SO ORDERED.**

DATED at Montpelier, Vermont, this 7<sup>th</sup> day of October, 2008.

s/James Volz )  
) PUBLIC SERVICE  
) BOARD  
s/David C. Coen )  
) OF VERMONT  
) s/John D. Burke )

OFFICE OF THE CLERK

FILED: October 7, 2008

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*